



THE SPECIAL EDITION



Tennessee Department of Education, Division of Special Education

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Volume I, Issue II

Dr. Lana Seivers - Commissioner

September 2003

Joseph Fisher – Assistant Commissioner

Benton McDonough - Editor



THE SPECIAL EDITION

VOLUME I, ISSUE II

DIVISION OF SPECIAL
EDUCATION

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September 2003

Message from the Assistant Commissioner

Dear Reader,

On January 8, 2002, President Bush signed the No Child Left Behind (NCLB) Act into law. This legislation is not unique to Special Education alone, but every aspect of education across America will be affected by this new law. This mandate covers all states, school districts and schools that accept Title I federal grants that fund programs for poor and disadvantaged children in public schools. NCLB seeks four key principles in which to achieve. These principles include the following:

- Accountability for student performance;
- More flexibility in use of federal funds;
- More options for parents of children from disadvantaged backgrounds; and
- More use of proven teaching methods.

The Tennessee Department of Education, Division of Special Education, seeks to fully support its educators while at the same time implementing these new federal regulations. We understand that many educators have anxiety related to this new legislation; and you are not alone, but we feel that we have highly qualified, competent teachers in our state and we will do everything within our power to assist each teacher in attaining these new qualifications set up by NCLB.

School systems of all types, from across the country, have questions relating to the funding of this new program, and finding a way to measure the average yearly progress that is challenging but fair to all students and teachers. These are relevant questions that can only be answered over time. The impact of NCLB and IDEA on Special Education is covered in the "Legal Corner" of this edition. For further inquiries into NCLB you can visit the Department of Education's Website: www.state.tn.us/education and click on the NCLB link. NCLB will be a challenge for everyone, regular and special education, but only if we work together can we accomplish the goals set forth by this legislation.

Sincerely,

Joseph Fisher
Assistant Commissioner

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*A Capsule in Time****The History of Special Education in Tennessee***

By: Bob Tipps

Prior to the 1970s there were few school systems across the state that provided services to or for handicapped children. Services generally consisted of services through the Crippled Children's Society. Most of the children were kept at home due to the lack of programs and services. However, there were a few school districts and some organizations that provided minimal services. One example was Trinity Lutheran Church in Tullahoma which provided a day class for retarded children at the church beginning in the late 50s and continued until 1967 when parent groups forced the Tullahoma Schools to assume responsibility for the class.

Through the efforts of parents, the Council for Exceptional Children, local associations for retarded citizens, and others, there appeared some hope on the horizon that education programs for the disabled could be initiated.

On April 13, 1972, a bill was passed by the Tennessee General Assembly, known as the Weldon Act. It was referred to as Tennessee's Mandatory Education Law. The legislation was sponsored in the House of Representatives by Representative Tag Weldon from Memphis and in the Senate by Senator Curtis Person of Memphis. The legislation was signed into law by Governor Winfield Dunn on April 25, 1972.

Representative Weldon was a brother-in-law to attorney Tom James of Memphis who worked to get the bill passed. Tom and Frances James were the parents of a disabled child. Tom was appointed by Governor Dunn as a charter member of the Advisory Council for Education of the Handicapped along with yours truly as president of the Tennessee Association for Retarded Citizens.



TCAP

Updates: Tennessee Comprehensive Assessment Program

By: Ann Sanders

Special Conditions Accommodations – Expanded:

The *Special Conditions Accommodations* developed for students with IEPs in special education are presently being reviewed and revised for the 2003-2004 TCAP Assessments. Once revisions are finalized, these documents will be mailed to all school systems and private schools with approved special education programs. The Revised *TCAP IEP Addendums* and *Instructions for Use of the Accommodations* will also be posted on the Special Education website in the Assessment section located at: <http://www.state.tn.us/education/speced/seassessment/>.

There are several considerations under review for revision. One major change will be the availability of *Special Conditions Accommodations* for students eligible with disabilities under the guidelines of Section 504. Requirements use of these accommodations for students with Section 504 eligibility will be the same as the requirements for students with IEPs under IDEA, including:

- the consistent use of the test accommodations in the classroom as documented on the student's 504 Plan (or IEP) and,
- documentation of the test accommodations on the appropriate TCAP Test Addendum(s).

TCAP-Alt: ASA – A Different Test:

Students who meet the participation criteria for the TCAP-Alt will continue to have two options for assessment:

1. TCAP-Alt: PA (*Portfolio Assessment*)
2. TCAP-Alt: ASA (*Alternative Standards Assessment*).

In the two previous school years, the TCAP-Alt: ASA (then Academic Skills Assessment) was an off grade level TerraNova assessment available for students meeting the TCAP-Alt Participation Criteria and demonstrating measurable academic abilities. The difficulty in using this model of assessment, however, has been the lack of comparability with age-appropriate peers and inability to measure the student's annual yearly progress with the State's curriculum standards, as is required by No Child Left Behind (NCLB).

The New TCAP-Alt: Alternate Standards Assessment will assess students' present level of academic functioning based on the Tennessee Curriculum Standards. The TCAP-Alt ASA system consists of nine levels of assessment, 2nd grade through 10th grade. The 2nd grade ASA should be given to students who meet TCAP-Alt Participation Guidelines and whose IEP team has determined that the ASA is the most appropriate assessment for the student in school systems that have opted to assess all 2nd graders. TCAP-Alt ASA grades 3 through 10 will be administered to all students who meet TCAP-Alt Participation Guidelines and whose IEP team has determined that the ASA is the most appropriate assessment for the student. The TCAP-Alt ASA is designed to assess students whose functional academic level is at least readiness/beginning kindergarten level and can be measured using a standard test format. Accommodations listed in the student's IEP and used in their daily instructional program can be used during the administration of the TCAP-Alt ASA.

AP and TCAP-Alt results for students with disabilities are included as part of the Annual Yearly Progress (AYP) equation. The TCAP-Alt will be reported in the three levels used by the State:

- Below proficient
- Proficient, and
- Advanced.



Administrative Complaints

The Independent Educational Evaluation Process

By: Chip Fair

In this installment, we will talk about a complaint issue that is frequently submitted, problems with the Independent Educational Evaluation (IEE) process.

Federal IDEA Regulations at 34 C.F.R. § 300.502 and Tennessee State Board of Education Rules and Regulations at section 0520-1-9-.14 (6) describe the process and procedure for a parent to request and receive an IEE.

Here it is in a nutshell:

- If a parent disagrees with a school system evaluation, they may request an IEE to be done at public expense
- The school system should provide the parent with a list of appropriately credentialed evaluators in the area, who are not nor have ever been employed by the system even as contracted help. (This is “Best Practice” and is not required by regulation.)
- The parent should contact the independent evaluator of their choosing, from the list if provided, and schedule a date and time for the evaluation.
- The school system pays for the independent evaluation.
- The parent should request an IEP team meeting after they have the results from the independent evaluation.
- The IEP team must consider the results of the IEE as they make decisions regarding the student’s IEP.

To clarify some points frequently misunderstood:

- The IEE is to be the same evaluation that the system performed. For example, if the system gave the Wiat, the IEE could not be for Music Therapy. An IEE is the disputed evaluation being re-given by an independent evaluator.
- The system may stipulate a maximum amount that they will pay for an IEE. This should be an amount that would normally cover the cost of the testing. If a parent goes to an evaluator who inflates the price, or performs additional evaluations, the system would probably not be held responsible if they had communicated their maximum amount to the parent previously. (This is “Best Practice” and is not required by regulation.)
- When a parent requests an IEE, the system has two (2) options. Either grant the request for an IEE, or take the parent to Due Process to defend the school-performed evaluation.

If the system has but two (2) options, how are complaints generated by requests for an IEE, you ask?

- Systems sometimes do not grant a request for an IEE in a reasonable amount of time.
- A list of local independent evaluators is not provided to the parent.
- The system refuses to pay for the IEE.
- Parents expect the system to adopt the recommendations of the IEE even though the regulations state that the IEP team must “consider” the IEE.

Does this raise additional questions in your mind? As always, in addition to reading this newsletter, you may wish to call us at (615) 741-2851. We are here to answer your questions.



Compliance and Monitoring

Update on the Continuous Improvement Monitoring Process (CIMP) for Tennessee School Systems 2002-2003 School Year

By: Steve Sparks

Thirty-four (34) TN school systems completed the Self Assessment/ Monitoring of their Special Education Programs during this school year. Following review by the Division's monitoring staff of: local data, survey results, student records and numerous other items, systems developed Program Improvement Plans (PIPs) addressing area's of needed improvement.

Indicators (or standards) of the CIMP Self Assessment that showed need for improvement in approximately one fourth (1/4) of the systems assessed (across the State) are reported below.

General Supervision (GS)

GS 11 Pre-service and in-service training (for professional staff and student interns) address identified needs.

- 17 of 34 systems require improvement in this area.

GS 12 Pre-service and in-service training addresses the special knowledge, skills and abilities needed to serve the unique needs of children with disabilities: including those with low incidence disabilities.

- 8 of 34 systems require improvement in this area.

Early Childhood Transition (ECT)

ECT13 Transition training is provided jointly to Parts B & C providers and parents in response their identified needs.

- 12 of 34 systems require improvements in this area.

Parent Involvement (PI) ** (area of greatest number of improvement needs)

PI19 Positive results of surveys of parents, who participate in program improvement activities, when available, increase.

- 10 of 34 systems require improvement in this area.

PI20 Results of program improvement activities reflect the identified needs of parents of children with disabilities.

- 19 of 34 systems require improvement in this area.

PI23 Parents are actively involved in decision making for their children.

- 13 of 34 systems require improvement in this area.

FAPE in the Least Restrictive Environment (FLRE)

FLRE26 Children receive timely evaluations (i.e. 40days) including those transitioning from Part C.

FLRE27 Children receive timely re-evaluations (at least every 3 years)

- 10 of 34 systems require improvement in this area.

FLRE40 Training for implementing LRE is provided to address identified needs.

- 9 of 34 systems require improvement in this area.

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Secondary Transition (ST)

ST 42 Is the percentage rate of youth with disabilities graduating with a general education diploma comparable to those for youth without disabilities?

- 17 of 34 systems require improvement in this area.

All of the above areas (as well as some not reported here) will be followed up on by the Division next school year. Evidence of improvements will be determined by review of documentation proving those efforts. If no efforts to improve are found on "any" plans of a particular system, sanctions will be imposed accordingly.

Continuous Improvement Monitoring Process Schedule for Tennessee School Systems

*Indicates the school year that each school system began its multiple year Self Assessment / Monitoring of its special education programs.

- *Cycle I 2001-2002:** Dyer, Fayette, Henderson, Humphreys, Perry, Wayne, Alamo, Ho. Ro.-Bruce, Huntington, Lake, McKenzie, South Carroll, Cannon, Coffee, Cumberland, Jackson Co, Macon, Rutherford, Smith, Warren, Franklin SSD, Giles, Hickman, Lawrence, Marshall, Williamson, Anderson, Morgan, Oneida City, Roane, Sevier, Cocke, Hawkins, Jefferson, Johnson Co, Rogersville City, Etowah, Harriman, Hamilton, Marion, McMinn, Polk.
- *Cycle II 2002-2003:** Covington SSD, Dyersburg City, Hardin, Lexington SSD, Memphis City, Bells City, Benton, Crockett, Obion, Paris, Stewart, Union City, DeKalb, Franklin Co., Lebanon, Manchester, Pickett, Putnam, White, Wilson, Cheatham, Davidson, Campbell, Knox, Oak Ridge, Scott, Union, Carter, Elizabethton, Newport City, Greene Co., Greeneville, Hancock, Unicoi
- *Cycle III 2003-2004:** **(Hiram Tate)** Robertson, Montgomery, Dickson, Maury, Sumner **(Robert Winstead)** Alcoa City, Blount, Hamblen **(Judy Walters)** Kingsport Sullivan, Washington **(Doug Settles)** Meigs, Monroe, Rhea, Sweetwater, Dayton, Grundy, Richard City **(Mark Reep)** Fentress, Murfreesboro, Trousdale, Tullahoma **(Steve Boggan)** Haywood, Lauderdale, McNairy, Shelby **(Nancy Turnbo)** Decatur, Gibson, Henry, Milan, Weakley
- *Cycle IV 2004-2005:** **(Hiram Tate)** Fayetteville, Lincoln, Bedford, Lewis, Moore **(Robert Winstead)** Clinton, Grainger, Maryville, (Judy Walters) Bristol, Claiborne, Johnson City, **(Doug Settles)** Athens, Bledsoe, Bradley, Lenoir City, Loudon, Cleveland, Sequatchie **(Mark Reep)** Clay, Overton, Van Buren **(Steve Boggan)** Chester, Hardeman, Jackson-Madison, Tipton **(Nancy Turnbo)** Bradford SSD, Houston, Humboldt, Trenton.



Legal Corner

A New IDEA for the Future

Prepared by Bill Ward, Esq.

The Individuals with Disabilities Education Act (IDEA) is in the process of being reauthorized by Congress. The U.S. House of Representatives has passed an IDEA reauthorization bill and the U.S. Senate is currently debating their version of the act. When the Senate bill passes a conference committee from both Houses of Congress will meet and resolve conflicts in the acts. The following is an attempt to highlight some of the more important departures from present law.

Discipline: The House bill makes no real distinction between regular education and special education students (i.e. discipline is handled on a case by case basis, the bill does not specify a discrete number of days that schools can remove students), manifestation determinations, functional behavior assessments (FBA), and behavior intervention plans (BIP) are eliminated. The Senate bill retains the manifestation determination process and the 45 days maximum removal time for disciplinary infractions deemed to be manifestations of the student's disability, and establishes a 20 day timeline (currently 30 in Tennessee) for expedited due process hearings when parents dispute the disciplinary sanctions. Both bills require continuation of services during disciplinary removals.

Dispute Resolution: The House bill provides for voluntary binding arbitration a heretofore, unexplored avenue of IDEA dispute resolution. This is a process entered into voluntarily by the parties wherein they select an arbitrator from a list provided by the state to hear the case and make a final decision that can not be appealed. The House bill allows non-attorney advocates to represent parents in due process hearings. Both bills incorporate an early resolution period in which the parties must meet and attempt to resolve the dispute before a hearing can take place. Both bills specify a timeline (statute of limitations) within which all complaints and requests for due processes must be filed. This timeline is one year in the House bill and two years in the Senate bill. Additionally, the Senate bill allows a party 90 days (now 60 days in Tennessee) in which to appeal a hearing officer's decision and directs hearing officers to ignore technical errors having no effect on the child.

IEP: Both bills allow three-year IEPs. The House Bill permits three-year IEPs when the parents and district agree and the Senate bill only authorizes three-year IEPs for students ages 18-21. The House provides for more flexible IEP team attendance by allowing the parent and the LEA to jointly excuse any member of the IEP team from attendance if they agree that attendance is not necessary. Both bills eliminate short-term objectives and benchmarks; however, the House bill waits until the 2005-2006 school year when NCLB report card requirements take effect. While the House bill eliminates BIPs, the Senate bill includes them in the IEP. Finally, the House bill directs OSEP to develop a model IEP form.

Evaluation: Both bills eliminate the IQ-discrepancy model used to determine learning disability eligibility and replace it with response to interventions. This change reflects concern by Congress that learning disabilities have become pandemic and are generally rooted in poor reading skills. The House bill limits re-evaluations to not more than one per year unless the parent and the LEA agree otherwise.

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Personnel Quality: Both bills use the NCLB highly qualified teacher standards, but differ as to the time-frame for implementation (i.e. 2005-2006 school year for the House bill and 2006-2007 school year for the Senate bill). The House also adopts NCLB's paraprofessional standards.

Funding: Neither house has addressed full funding of the IDEA, nevertheless, each house has attempted to give states and LEAs more flexibility in their use of funds. The House allows some use of IDEA funds for 504 students, allows schools to pay for supplemental education services, and permits Early Childhood programs to spend up to 15% of their IDEA funds on pre-referral services. Under the Senate version, the LEA may use up to 15% of their IDEA funds for non-IDEA students and requires states to save 2% of their Part B funds for high-cost students.

Early Childhood: Both bills allow parents to keep "same service providers" for their children from birth to 5 using IDEA funds. These provisions are intended to create seamless transition from Part C to Part B. In a non-IDEA, but related matter, the Federal Head Start Program may soon sport a different look. A current proposal would move it from Health and Human Services to the U.S. Department of Education, while another would turn the program over to the states.

That's it in a nutshell, a whirlwind view of things to come. Hopefully, the IDEA reauthorization will be complete and the view will be clearer by next edition.

CALENDAR

DATES TO REMEMBER:

East Tennessee Special Education Supervisors Training - October 16-17, 2003 at the Wonderland Motel, Weers Valley. For more information contact: Robert Winstead, East Tennessee Regional Resource Center (Knoxville), 865-594-5691.

West Tennessee Special Education Supervisors Training—September 25th & 26th. Contact: Larry Greer, West Tennessee Regional Resource Center (Jackson) 731-421-5074.

2004 Joint Conference - March 17-19, 2004, Nashville. Contact: Ann Hampton, Andrew Johnson Tower (Nashville), 615-741-3385.

TN Educational Leadership (LEAD) and Assessment Pre-Conference - Tuesday October 7 - Thursday October 9. Assessment Pre-conference from 1:00 - 9:00 p.m. (Tuesday). LEAD Conference from 1:00 p.m. Tuesday until 12:00 noon, Thursday, October 9. These meetings combine the Principals' Study Council and Supervisors' Study Council Annual Conference with the Assessment Conference and various Federal Program meetings to bring the education leaders of Tennessee together. **Registration:** \$50.00 per person and Includes awards luncheon. Governor Bredesen will be on hand to speak and congratulate these top educators at luncheon. **More information** contact: Sandy Robert (LEAD) at sandy.robert@state.tn.us or 615-532-4732. Karen Jenkins (Assessment Pre-Conference) at karen.jenkins@state.tn.us or 615-532-3027.



ATTENTION SCHOOL PERSONNEL
ONLINE PROGRAMS AND COURSES FOR P-12 TEACHERS
Attend Classes at Home at Work Anytime – Anywhere 24 hrs/7days
Offered by ALL TBR Universities [APSU/ETSU/MTSU/TSU/TTU/UOM] in
partnership with the State Board of Education & Department of Education

New: Fall 2003

RODP Online Master Degree in
Advanced Studies: Teaching and Learning

This program is designed for teachers to receive advanced professional preparation consistent with National Board for Professional Teaching Standards (NBPTS) core propositions certification in

Early and Middle Childhood/Literacy:

Reading—Language Arts.

[This is not an initial licensure program. You must be a certified teacher to enroll in this program.]

Add On Endorsements

Are you a K-12 Teacher currently teaching on a waiver and need an

Add On Endorsement in

Biology ~ Chemistry ~ Math ~ Special Ed ~
English Second Language?

You are now able to complete your add-on program online!

[Lab courses for the upper division science courses will be offered on ground during special arranged times, i.e. summer institutes, nights, weekends, etc.]

Alternative C License: Science & Math

Are you interested in becoming a High School Teacher for Math or Science?

If you currently have a bachelor degree in

Math or Science areas then you are able to obtain your teaching license online!

Plus, a special grant/scholarship (regardless of income) is now available for your tuition!

Contact Dr. Melton at rkmelton@tbr.state.tn.us or call 1-888-223-0023

Teacher Aides/Paraprofessionals

Are you a teacher aide interested in obtaining your associate degree?

Are you worried about the "No Child Left behind (NCLB)" course requirements?

You are now able to obtain your courses and your full degree online!

RODP Online Associate (AS) Degree Program

[Offered at ALL TBR Community Colleges]

Fall 2003 Course for NCLB: **Classroom Management**

Online Professional Development for P-12 Teachers

Are you looking for re-certification courses?

Do you need to earn inservice credits?

The Universities of the Tennessee Board of Regents [APSU/ETSU/MTSU/TSU/TTU/UOM] are able to offer your professional development activities and courses online!

Fall 2003 Course Offerings

Contact Cindy Womack at clwomack@mtsu.edu

For further details go to <http://www.tn.regentsdegrees.org/edu/>
or call 1-888-223-0023



Looking for a Career in Special Education?



What if you could:

- ✓ Conduct virtual tours of TN Colleges and Universities with teacher education programs?
Learn more about Special Education careers?
- ✓ Get information about scholarships, Tennessee teacher
low-interest loans, financial aid options, TN DOE and USDOE supported stipends, and more?
- ✓ Obtain information about Tennessee's teaching license requirements?
- ✓ Learn about the TN Regional Online Degree Program?
- ✓ Learn more about the TN Lottery Scholarships? (Click on "TN Student Assistance Corp")
- ✓ Learn more?

Go to : www.k12.tn.us/BASE-TN

For more information:

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Become A Special Educator in TN



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